

No. 06-0831 DI

1. Lane was licensed as an insurance producer. His license expired on December 31, 2004.

2. Lane was an insurance producer for Farmers Insurance Group ("Farmers"). His responsibilities included selling Farmers insurance coverage, collecting premium payments and remitting the premium payments to Farmers.

3. From January 8, 2003, through January 9, 2004, Lane received approximately \$133,748.92 from Westport Crossing Condominium Association as insurance premium payments. Lane took \$60,997.02 of that money and used it himself instead of paying it to Farmers.

4. From September 30, 2002, through January 12, 2004, Lane received approximately \$72,961.94 from Fowler Envelope Company as insurance premium payments. Lane took \$3,462.61 of that money and used it himself instead of paying it to Farmers.

5. From August 1, 2002, through February 2, 2004, Lane received approximately \$176,025.85 from Suntrup Ford City, Inc. as insurance premium payments. Lane took \$49,023.15 of that money and used it himself instead of paying it to Farmers.

### **Conclusions of Law**

We have jurisdiction to hear this case.<sup>1</sup> The Director has the burden of proving that Lane has committed an act for which the law allows discipline.<sup>2</sup> The Director argues that there is cause for discipline under § 375.141.1, which authorizes discipline for:

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

and § 375.141.1, RSMo 2000, which authorizes discipline if a licensee:

(5) Misappropriated or converted to his, her or its own use or illegally withheld money belonging to an insurance company, its agent, or to an insured or beneficiary or prospective insurance buyer[.]

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<sup>1</sup>Section 621.045. Statutory references, unless otherwise noted, are to the 2005 Supplement to the Revised Statutes of Missouri.

<sup>2</sup>*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

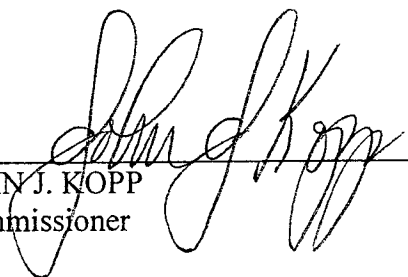
Misappropriation means “[t]he unauthorized, improper, or unlawful use of funds or other property for [a] purpose other than that for which intended.”<sup>3</sup> Conversion is the diversion of another’s funds, by the holder of such funds, to a purpose other than that specified by the owner.<sup>4</sup> We evaluate the facts under the law in effect when they occurred.<sup>5</sup> In this case, the facts and laws are similar enough that we may consider them together.

The Director provided the following as evidence of Lane’s conduct: an affidavit of a Farmers Senior Claims Representative, copies of checks of insurance premium payments made to Lane, and summaries of the difference between what was paid and what was credited as paid by the insured. The Director proved that Lane took money that was paid as insurance premiums and owed to an insurance company, and used it himself instead of paying it to the company. He misappropriated, converted, and illegally withheld the money, and he is subject to discipline under § 375.141.1(5), RSMo 2000, and § 375.141.1(4).

### Summary

Lane is subject to discipline under § 375.141.1(5), RSMo 2000, and § 375.141.1(4).

SO ORDERED on January 18, 2007.

  
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JOHN J. KOPP  
Commissioner

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<sup>3</sup> *Monia v. Melahn*, 876 S.W.2d 709, 713 (Mo. App., E.D. 1994).

<sup>4</sup> *Hall v. W.L. Brady Inv., Inc.*, 684 S.W.2d 379, 384 (Mo. App., W.D. 1984).

<sup>5</sup> Section 1.170, RSMo 2000. The revised version of § 375.141 was effective as of January 1, 2003.